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PTO/SB/21 (02-04)

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/658,515	
	Filing Date	September 9, 2003	
	First Named Inventor	Mark A. Reiley	
	Art Unit	3738	
	Examiner Name	David J. Isabella	
Total Number of Pages in This Submission		Attorney Docket Number	29914-701.404

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
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<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	3. Copies of references #108-144
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT	
Firm or Individual name	Cecily Anne O'Regan, Reg. No. 37,448, WILSON SONSINI GOODRICH & ROSATI
Signature	<i>[Signature]</i>
Date	December 16, 2005

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
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Signature	<i>[Signature]</i>	Date	December 16, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 29914-701.404  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Mark A. Reiley	)	Group Art Unit: 3738
Serial Number: 10/658,515	)	Examiner: David J. Isabella
Filing Date: September 9, 2003	)	CONFIRMATION NO: 1785
Title: FACET ARTHROPLASTY DEVICES AND METHODS	)	

Certificate of Mailing or Transmission  
37 CFR §1.8

I hereby certify that this paper is being: ☒ deposited with the U.S. Postal Service with sufficient postage as first class mail and addressed to Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450; or ☐ transmitted by facsimile to the Patent and Trademark Office in accordance with §1.6(d) to facsimile number on December 16, 2005. [Signature]  
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**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 C.F.R. §1.97**

Sir:

Applicant hereby submits an Information Disclosure Statement along with attached form(s) PTO/SB/08. A copy of each listed publication is being submitted, if required, pursuant to 37 C.F.R. §§1.97-1.98, as indicated below.

Applicant respectfully requests that the listed information be considered by the Examiner and be made of record in the above-identified application. Applicant further requests that the Examiner initial and return the attached form(s) PTO/SB/08 in accordance with MPEP §609.

Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in §1.56.

☐ 37 CFR §1.97(b). This Information Disclosure Statement should be considered by the Office because:

- ☐ (1) It is being filed within 3 months of the application filing date of a national application and is other than a continued prosecution application under §1.53(d);  
-- OR --
- ☐ (2) It is being filed within 3 months of entry of a national stage as set forth in §1.491 in an international application;  
-- OR --
- ☒ (3) It is being filed before the mailing date of the first Office Action on the merits;  
-- OR --
- ☐ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under §1.114.

☐ 37 CFR §1.97(c). Although this Information Disclosure Statement is being filed after the period specified in 37 CFR §1.97(b), above, it is filed before the mailing date of the earlier of (1) a final office action under §1.113, (2) a notice of allowance under §1.311, or (3) an action that otherwise closes prosecution on the merits, this Information Disclosure Statement should be considered because it is accompanied by one of:

- ☐ a certification as specified in §1.97(e) provided concurrently herewith;  
-- OR --
- ☐ a fee of \$180.00 as set forth in §1.17(p) authorized below, enclosed, or included with the payment of other papers filed together with this statement.

☐ 37 CFR §1.97(d). Although this Information Disclosure Statement is being filed after the mailing date of the earlier of (1) a final office action under §1.113 or (2) a notice of allowance under §1.311, it is being filed before payment of the issue fee and should be considered because it is accompanied by:

- A. a certification as specified in §1.97(e); and
- B. a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this Statement.

☐ 37 CFR §1.97(e). A certification signed by an Attorney of Record is provided herewith as required under 37 CFR §§1.97(b) and (c).

☒ 37 CFR §1.98(a)(2). The content of the Information Disclosure Statement is as follows:

- ☐ Copies of each of the references listed on the attached Form PTO/SB/08A are enclosed herewith.  
-- OR --
- ☒ Copies of U.S. Patent Documents (issued patents and patent publications) listed on the attached Form PTO/SB/08A are NOT enclosed.  
-- AND/OR --
- ☒ Copies of Foreign Patent Documents and/or Non Patent Literature Documents listed on the attached Forms PTO/SB/08A-B are enclosed in accordance with 37 CFR §1.98(a)(2).  
-- AND/OR --
- ☐ Copies of pending unpublished U.S. patent applications are enclosed in accordance with 37 CFR §1.98(a)(2)(iii).

☒ 37 CFR §1.98(a)(3). The Information Disclosure Statement includes non-English patents and/or references.

☐ Pursuant to 37 CFR §1.98(a)(3)(i), a concise explanation of the relevance of each patent, publication or other information provided that is not in English is provided herewith.

☒ Pursuant to 37 CFR §1.98(a)(3)(ii), a copy of a translation of the non-English language reference(s) is provided herewith.

WO 01/28442 A1, WO 02/071960 A1 and WO 03/041618 A2 were published in French. The English language abstract and the drawings are sufficient to convey the scope of their disclosure.

Should the Examiner believe that a complete translation of any of the above mentioned publications is necessary to understand their disclosure, Applicant(s) will endeavor to provide such translations at the Examiner's request.

☐ Attached are copies of search report(s) from corresponding patent application(s), submitted in accordance with MPEP 609 D in support of the attached certification under 37 CFR §1.97(e)(1).

☒ *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$0.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (Docket No. 29914-701.404).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Dated: December 19, 2005

By: 

Cecily Anne O'Regan, Reg. No. 37,448

650 Page Mill Road  
Palo Alto, CA 94304-1050  
(650) 493-9300  
Customer No. 021971



<b>Substitute for form 1449/PTO</b> <b>INFORMATION DISCLOSURE</b> <b>STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/658,515
				Filing Date	September 9, 2003
				First Named Inventor	Mark A. Reiley
				Art Unit	3738
				Examiner Name	David J. Isabella
Sheet	1	of	7	Attorney Docket Number	29914-701.404

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	1	US 4,156,296	05-29-1979	Johnson et al.	
	2	US 4,210,317	07-01-1980	Spann et al.	
	3	US 4,231,121	11-04-1980	Lewis	
	4	US 4,394,370	07-19-1983	Jefferies	
	5	US 4,472,840	09-25-1984	Jefferies	
	6	US 4,611,581	09-16-1986	Steffee	
	7	US 4,805,602	02-21-1989	Puno et al.	
	8	US 4,955,916	09-11-1990	Carignan et al.	
	9	US 5,000,165	03-19-1991	Watanabe	
	10	US 5,015,255	05-14-1991	Kuslich	
	11	US 5,019,081	05-28-1991	Watanabe	
	12	US 5,062,845	11-05-1991	Kuslich et al.	
	13	US 5,129,900	07-14-1992	Asher et al.	
	14	US 5,284,655	02-08-1994	Bogdanský et al.	
	15	US 5,300,073	04-05-1994	Ray et al.	
	16	US 5,314,476	05-24-1994	Prewett et al.	
	17	US 5,405,390	04-11-1995	O'Leary et al.	
	18	US 5,445,639	08-29-1995	Kuslich et al.	
	19	US 5,474,555	12-12-1995	Puno et al.	
	20	US 5,491,882	02-20-1996	Walston et al.	
	21	US 5,507,823	04-16-1996	Walston et al.	
	22	US 5,510,396	04-23-1996	Prewett et al.	
	23	US 5,569,247	10-29-1996	Morrison	
	24	US 5,571,191	11-05-1996	Fitz	
	25	US 5,587,695	12-24-1996	Warmerdam	
	26	US 5,658,338	08-19-1997	Tullos et al.	

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/658,515
				Filing Date	September 9, 2003
				First Named Inventor	Mark A. Reiley
				Art Unit	3738
				Examiner Name	David J. Isabella
Sheet	2	of	7	Attorney Docket Number	29914-701.404

## U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	27	US 5,575,792	11-19-1996	Errico et al.	
	28	US 5,577,995	11-26-1996	Walker et al.	
	29	US 5,603,713	02-18-1997	Aust et al.	
	30	US 5,643,263	07-01-1997	Simonson	
	31	US 5,683,392	11-04-1997	Richelsoph et al.	
	32	US 5,688,274	11-18-1997	Errico et al.	
	33	US 5,690,630	11-25-1997	Errico et al.	
	34	US 5,725,527	03-10-1998	Biedermann et al.	
	35	US 5,738,585	04-14-1998	Hoyt, III et al.	
	36	US 5,741,255	04-21-1998	Krag et al.	
	37	US 5,741,261	04-21-1998	Moskovitz et al.	
	38	US 5,766,253	06-16-1998	Brosnahan, III	
	39	US 5,782,833	07-21-1998	Haider	
	40	US 5,797,911	08-25-1998	Sherman et al.	
	41	US 5,800,433	09-01-1998	Benzel et al.	
	42	US 5,827,289	10-27-1998	Reiley et al.	
	43	US 5,863,293	01-26-1999	Richelsoph	
	44	US 5,866,113	02-02-1999	Hoensbroek et al.	
	45	US 5,879,350	03-09-1999	Sherman et al.	
	46	US 5,879,396	03-09-1999	Walston et al.	
	47	US 5,885,285	03-23-1999	Simonson	
	48	US 5,891,145	04-06-1999	Morrison et al.	
	49	US 5,947,893	09-07-1999	Agrawal et al.	
	50	US 5,964,760	10-12-1999	Richelsoph	
	51	US 6,010,503	01-04-2000	Richelsoph et al.	
	52	US 6,019,759	02-01-2000	Rogozinski	

Examiner Signature		Date Considered	
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Sheet	3	of	7	Attorney Docket Number	29914-701.404

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		Number-Kind Code <sup>2</sup> (if known)			
	53	US 6,022,350	02-08-2000	Ganem	
	54	US 6,074,391	06-13-2000	Metz-Stavenhagen et al.	
	55	US 6,077,262	06-20-2000	Schläpfer et al.	
	56	US 6,086,590	07-11-2000	Margulies et al.	
	57	US 6,090,111	07-18-2000	Nichols	
	58	US 6,132,430	10-17-2000	Wagner	
	59	US 6,132,464	10-17-2000	Martin	
	60	US 6,190,388 B1	02-20-2001	Michelson et al.	
	61	US 6,200,322 B1	03-13-2001	Branch et al.	
	62	US 6,231,575 B1	05-15-2001	Krag	
	63	US 6,248,105 B1	06-19-2001	Schläpfer et al.	
	64	US 6,280,443 B1	08-28-2001	Gu et al.	
	65	US 6,290,703 B1	09-18-2001	Ganem	
	66	US 6,309,391 B1	10-30-2001	Crandall et al.	
	67	US 6,340,361 B1	01-22-2002	Kraus et al.	
	68	US 6,340,477 B1	01-22-2002	Anderson	
	69	US 6,342,054 B1	01-29-2002	Mata	
	70	US 6,368,320 B1	04-09-2002	Le Couedic et al.	
	71	US 6,451,021 B1	09-17-2002	Ralph et al.	
	72	US 6,471,705 B1	10-29-2002	Biedermann et al.	
	73	US 6,520,963 B1	02-18-2003	McKinley	
	74	US 6,524,315 B1	02-25-2003	Selvitelli et al.	
	75	US 6,540,749 B2	04-01-2003	Schäfer et al.	
	76	US 6,547,790 B2	04-15-2003	Harkey, III et al.	
	77	US 6,554,843 B1	04-29-2003	Ou	
	78	US 6,565,565 B1	05-20-2003	Yuan et al.	
	79	US 6,572,617 B1	06-03-2003	Senegas	

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		Number-Kind Code <sup>2</sup> (if known)			
	80	US 6,585,769 B1	07-01-2003	Muhanna et al.	
	81	US 6,638,321 B1	10-28-2003	Genet et al.	
	82	US 6,749,361 B2	06-15-2004	Hermann et al.	
	83	US 6,770,095 B2	08-03-2004	Grinberg et al.	
	84	US 6,793,678 B2	09-21-2004	Hawkins	
	85	US 6,811,567 B2	11-02-2004	Reiley	
	86	US 6,902,580 B2	06-07-2005	Fallin et al.	
	87	US RE 36,758	06-27-2000	Fitz	
	88	US 2002/0013585 A1	01-31-2002	Gournay et al.	
	89	US 2002/0013588 A1	01-31-2002	Landry et al.	
	90	US 2002/0042613 A1	04-11-2002	Mata	
	91	US 2002/0049446 A1	04-25-2002	Harkey, III et al.	
	92	US 2002/0082601 A1	06-27-2002	Toyoma et al.	
	93	US 2002/0120272 A1	08-29-2002	Yuan et al.	
	94	US 2002/0123806 A1	09-05-2002	Reiley	
	95	US 2003/0191532 A1	10-09-2003	Goble et al.	
	96	US 2003/0040797 A1	02-27-2003	Fallin et al.	
	97	US 2003/0204259 A1	10-30-2003	Goble et al.	
	98	US 2004/0230201 A1	11-18-2004	Yuan et al.	
	99	US 2004/0230304 A1	11-18-2004	Yuan et al.	
	100	US 2005/0010291 A1	01-13-2005	Stinson et al.	
	101	US 2005/0080428 A1	04-14-2005	White	
	102	US 2005/0085912 A1	04-21-2005	Arnin et al.	
	103	US 2005/0102028 A1	05-12-2005	Arnin et al.	
	104	US 2005/0131406 A1	06-16-2005	Reiley et al.	
	105	US 2005/0177240	08-11-2005	Blain	
	106	US 2005/0187560 A1	08-25-2005	Dietzel et al.	
	107	US 2005/0192589 A1	09-01-2005	Raymond et al.	

Examiner Signature		Date Considered	
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				Application Number	10/658,515
				Filing Date	September 9, 2003
				First Named Inventor	Mark A. Reiley
				Art Unit	3738
				Examiner Name	David J. Isabella
Sheet	5	of	7	Attorney Docket Number	29914-701.404

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>2</sup> - Number <sup>3</sup> - Kind Code <sup>4</sup> (if known)				
	108	EP 1103226	05-30-2001	Schaefer, Bernd		
	109	EP 1205152 A1	05-15-2002	Lafitt, S.A.		
	110	WO 01/06939 A1	02-01-2001	Eurosurgical		
	111	WO 01/15638 A1	03-08-2001	Cauthen Research Group, Inc.		
	112	WO 01/28442 A1 (in French) with English Abstract	04-26-2001	Spine Next		
	113	WO 01/67972 A2	09-20-2001	SDGI Holdings, Inc.		
	114	WO 02/00270 A1	01-03-2002	Victrex Manufacturing Ltd.		
	115	WO 02/00275 A1	01-03-2002	Victrex Manufacturing Ltd.		
	116	WO 02/02024 A1	01-10-2002	Surgival Co., S.A.		
	117	WO 02/02158 A1	01-10-2002	Victrex Manufacturing Ltd.		
	118	WO 02/071960 A1 (in French) with English Abstract	09-19-2002	Spine Next		
	119	WO 02/24149 A2	03-28-2002	Duke University		
	120	WO 02/34150 A2	05-02-2002	SDGI Holdings, Inc.		
	121	WO 03/041618 A2 (in French) with English Abstract	05-22-2003	Louis et al.		
	122	WO 03/075805 A1	09-18-2003	Chin		
	123	WO 2004/103228 A1	12-02-2004	Archus Orthopedics, Inc.		
	124	WO 2005/009301 A1	02-03-2005	Archus Orthopedics, Inc.		

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NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	125	ABRAHAM, D.J. et al. Indications And Trends In Use In Cervical Spinal Fusions. <i>Orthop Clin North Am.</i> October 1998; 29(4):731-44.	
	126	EICHHOLZ, K.M. et al. Complications of Revision Spinal Surgery, <i>Neurosurg Focus.</i> September 15, 2003; 15(3): pp. 1-4.	
	127	FARFAN, H.F. Effects Of Torsion On The Intervertebral Joints. <i>The Canadian Journal of Surgery</i> July 1969; 12(3):336-41.	
	128	FARFAN, H.F. The Pathological Anatomy Of Degenerative Spondylolisthesis. A Cadaver Study. <i>Spine.</i> 1980 Sep-Oct; 5(5):412-8.	
	129	FARFAN, H.F. et al. The Relation Of Facet Orientation To Intervertebral Disc Failure. <i>The Canadian Journal of Surgery</i> April 1967; 10(2):179-85.	
	130	FOSBINDER, R.A. et al. Essentials of Radiologic Science. The McGraw-Hill Companies; 2002.	
	131	GUYER, R. et al. Implant: Motion Preservation through Total Posterior-Element Replacement. May 7, 2004 Presentation held at Hofburg Center, Vienna, Austria, (2 pages).	
	132	KIRKALDY-WILLIS, W.H. et al. Pathology And Pathogenesis Of Lumbar Spondylosis And Stenosis. <i>Spine.</i> Dec. 1978; 3(4):319-28.	
	133	KULKARNI, et al. Accelerated Spondylotic Changes Adjacent to the Fused Segment Following Central Cervical Corpectomy: Magnetic Resonance Imaging Study Evidence. <i>J. Neurosurg (Spine 1).</i> 2004; 100: 2-6.	
	134	LAM, K. N., et al. <i>X-ray Diagnosis: A Physician's Approach.</i> Springer-Verlag; 1998.	
	135	LOMBARDI, J.S. et al. Treatment Of Degenerative Spondylolisthesis. <i>Spine.</i> 1985; 10(9): 821-7.	

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	136	MCMILLIN, C. R. et al. Artificial Spinal Discs with up to Five Years Follow-up. <i>20<sup>th</sup> Annual Meeting of the Society for Biomaterials</i> (Abstract) 1994; Page 89.	
	137	POSNER, I. et al. A Biomechanical Analysis of the Clinical Stability of the Lumbar and Lumbosacral Spine. <i>Spine</i> . 1982; 7(4): 374-389.	
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	139	SACHER, R., Impliant Brochure for presentation at MedTech Insight Conference (October 31, 2003) Boston, MA. pp. 93-94.	
	140	SLONE, R. M. et al. <i>Body CT: A Practical Approach</i> . The McGraw-Hill Companies; 1999.	
	141	STOUT, G. H. et al. <i>X-Ray Structure Determination: A Practical Guide</i> . 2nd Edition. John Wiley & Sons; 1989.	
	142	SZPALSKI, M., et al. Spine Arthroplasty: A Historical Review. <i>Eur Spine J</i> . 2002; 11(Suppl. 2): S65-S84.	
	143	UCR Pedicle Screw System from SeaSpine (information available at <a href="http://www.seaspine.com/UCR_Pedicle_Screw_System.html">http://www.seaspine.com/UCR_Pedicle_Screw_System.html</a> ). Accessed December 5, 2005.	
	144	Victrex of Lancashire, Great Britain. (information on Victrex available at <a href="http://www.matweb.com">http://www.matweb.com</a> ). Accessed December 5, 2005.	

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